

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GILBERT DOMINGUEZ,

Plaintiff,

Case No. 1:12-cv-734

v

HON. JANET T. NEFF

UNKNOWN WALKER, et al.,

Defendants.

_____ /

OPINION AND ORDER

Plaintiff filed a Complaint on July 13, 2012 pursuant to 42 U.S.C. § 1983, alleging a violation of his Eighth Amendment right to be free from cruel and unusual punishment based the alleged denial of medical treatment. Defendant Sharon Walker filed a Motion for Summary Judgment (Dkt 39), arguing that Plaintiff failed to exhaust his administrative remedies. Defendant Harriet A. Squier then filed a Concurrence and Joinder in Defendant Walker's Motion for Summary Judgment (Dkt 42). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that this Court grant Defendants' motion. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

The Magistrate Judge recommended this Court grant Defendants' Motion for Summary Judgment based on Plaintiff's failure to exhaust his administrative remedies (R & R, Dkt 45 at 7).

Plaintiff presents no argument in his objections that are responsive to the Magistrate Judge's analysis and conclusion in the Report and Recommendation. Plaintiff merely reasserts his claims of deliberate indifference to his medical needs and does not address the matter of his failure to exhaust his administrative remedies. Plaintiff demonstrates no error in the Magistrate Judge's Report and Recommendation.

Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 47) are DENIED and the Report and Recommendation (Dkt 45) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (Dkts 39, 42) is GRANTED, as to Defendants Walker and Squier.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of this decision would not be taken in good faith.

Dated: February 18, 2014

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge